

A

Patent
241/145

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Anticipated Classification of this application:
Class _____ Subclass _____
Prior application: _____
Examiner: _____
Art Unit: _____

BOX PATENT APPLICATION
Assistant Commissioner for Patents
Washington, D. C. 20231

FILING UNDER 37 CFR § 1.53(B)

This is a request for filing for a

☒ continuation ☐ divisional ☐ continuation-in-part (CIP)

application under 37 CFR § 1.53(b) of pending prior application Serial
No.. 08/737,446 filed on May 12, 1995 (international application filing date is May
12, 1995; but date on filing receipt is January 10, 1997),

of: John Dupre

for: TREATMENT OF DIABETES

I. COPY OF PRIOR APPLICATION AS FILED WHICH IS ATTACHED

☒ I hereby verify that the attached papers are a true and complete copy of what is shown
in my records to be the above-identified prior application, including the oath or
declaration as originally filed. (37 CFR § 1.53)

14 Page(s) of Specification
3 Page(s) of Claims
Page(s) of Abstract

SD-109179.1

CERTIFICATE OF MAILING
(37 C.F.R. §1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the
United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To Addressee'
in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

EL088408052US
Express Mail Label No.

March 29, 1999
Date of Deposit

Irene Grimes Betke

Name of Person Mailing Paper

Irene Grimes Betke
Signature of Person Mailing Paper

10 Sheet(s) of Drawings _____ formal ☒ Informal
2 Page(s) of Declaration and Power of Attorney

Small Entity Statement

- ☒ Pursuant to 37 CFR 1.63(d)(1), a newly executed oath or declaration is not required.
- ☐ A newly executed oath or declaration is filed herewith
- ☐ I hereby state that the amendment referred to in the declaration filed to complete the prior application, in accordance with the requirements of 37 CFR § 1.53(b), did not introduce new matter therein.

II. AMENDMENTS

- ☐ Cancel in this application original Claims _____ of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)
- ☒ A Preliminary Amendment is enclosed. (Claims added by Amendment must be numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)

III. INFORMATION DISCLOSURE STATEMENT

- ☐ An Information Disclosure Statement, PTO 1449, and references are submitted herewith.

IV. PETITION FOR SUSPENSION OF PROSECUTION FOR THE TIME TO FILE AN AMENDMENT

- ☐ There is provided herewith a PETITION FOR SUSPENSION OF PROSECUTION FOR THE TIME NECESSARY TO FILE AN AMENDMENT (NEW APPLICATION FILED CONCURRENTLY).

V. FEE CALCULATION

| | | | | | | |
|------------------------------------|-------|-----------------|----|---|---|--|
| BASIC FILING FEE: | | | | | | \$760.00 |
| Total Claims | 20 | - | 20 | = | 0 | x \$18.00 \$0.00 |
| Independent Claims | 4 | - | 3 | = | 1 | x \$78.00 \$78.00 |
| Multiple Dependent Claims | \$260 | (if applicable) | | | | <input checked="" type="checkbox"/> \$260.00 |
| Surcharge 37 CFR § 1.16(e) | \$130 | (if applicable) | | | | <input type="checkbox"/> \$0.00 |
| TOTAL OF ABOVE CALCULATIONS | | | | | | \$1,098.00 |

| | | |
|---|-------------------------------------|-----------------|
| Reduction by ½ for Filing by Small Entity. Note 37 CFR §§ 1.9, 1.27, 1.28. If applicable, Verified Statement must be attached. | <input checked="" type="checkbox"/> | \$549.00 |
| Misc. Filing Fees (Recordation of Assignment) | | \$0.00 |
| TOTAL FEES SUBMITTED HEREWITH | | \$549.00 |

☐ The fee for extra claims is not being paid at this time.

VI. SMALL ENTITY STATUS

A Verified Statement to establish small entity under 37 CFR §§ 1.9 and 1.27:

☐ is attached

☒ has been filed in the prior application and such status is still proper and desired. [37 CFR § 1.28(a)]

Filing Fee Calculation (50% of above) \$510.00

VII. DRAWINGS

[NOTE: DO NOT CHECK THIS IF PRIOR CASE IS NOT TO BE ABANDONED.]

☐ Transfer the drawings from the prior application to this application and, subject to Item 16 below, abandon said prior application as of the filing date accorded to this application. A duplicate copy of this request is enclosed for filing in the prior application file.
[May only be used if signed by (1) applicant, (2) assignee of record or (3) attorney or agent of record and before payment of issue fee. 37 CFR § 1.138.]

☐ Transfer the following sheet(s) of drawings from the prior application to this application.

☒ New drawings are enclosed ☐ formal ☒ informal

VIII. PRIORITY - 35 USC § 119

☐ Priority of application Serial No. _____ filed on _____ in _____ is claimed under 35 USC § 119.

☐ The certified copy has been filed in prior U.S. application Serial No. _____ on _____.

☐ The certified copy will follow.

IX. RELATE BACK - 35 USC § 120

- ☒ Amend the Specification by inserting before the first line the sentence:
This is a continuation of co-pending application Serial No. 08/737,446 filed May 12, 1995.

X. INVENTORSHIP STATEMENT

- ☒ With respect to the prior co-pending U.S. application from which this application claims benefit under 35 USC § 120, the inventor(s) in this application is (are):

☒ the same

☐ less than those named in the prior application and it is requested that the following inventor(s) identified above for the prior application be deleted:

[Name(s) of inventor(s) to be deleted]

- ☒ The inventorship for all the claims in this application are:

☒ the same

☐ not the same, and an explanation, including the ownership of the various claims at the time the last claimed invention was made, is submitted.

XI. ASSIGNMENT

- ☒ The prior application is assigned of record to Amylin Pharmaceuticals, Inc.
- ☐ An Assignment of the invention to _____ is attached.

XII. FEE PAYMENT BEING MADE AT THIS TIME

- ☐ Not attached. No filing fee is submitted. [This and the surcharge required by 37 CFR § 1.16(e) can be paid subsequently.]
- ☒ Attached.

☒ Filing fees.

\$549.00

☐ Recording assignment. [\$40.00 37 CFR § 1.21(h)(1)]

Petition fee for filing by other than all the inventors or person on behalf of the inventor where inventor refused to sign or cannot be reached.

[\$130.00; 37 CFR §§ 1.47 and 1.17(h)]

- ☐ Petition fee to Suspend Prosecution for the Time Necessary to File an Amendment (New Application Filed Concurrently.) -----
[\$130.00; 37 CFR §§ 1.103 and 1.17(i)]
- ☐ For processing an application with a specification in a non-English language. -----
[\$130.00; 37 CFR §§ 1.52(d) and 1.17(k)]
- ☐ Processing and retention fee. -----
[\$130.00; 37 CFR §§ 1.53(f) and 1.21(l)]

Total Fees Enclosed \$549.00

XIII. METHOD OF PAYMENT OF FEES

- ☒ Attached is a check in the amount of \$549.00.
- ☐ Charge Deposit Account No. **12-2475** in the amount of _____.

XIV. AUTHORIZATION TO CHARGE ADDITIONAL FEES

The Commissioner is hereby authorized to charge the following additional fees by this paper and during the entire pendency of this application to Deposit Account No. **12-2475**:

- ☒ 37 CFR § 1.16(a) (filing fees)
- ☒ 37 CFR § 1.16(b) (presentation of extra claims)
- ☒ 37 CFR § 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)
- ☒ 37 CFR § 1.17 (application processing fees)
- ☒ 37 CFR § 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 CFR § 1.311(b))

XV. INSTRUCTIONS AS TO OVERPAYMENT

- ☒ Credit Deposit Account No. **12-2475**.
- ☐ Refund

XVI. POWER OF ATTORNEY

- ☐ The power of attorney in the prior application is to _____.

- ☒ The power of attorney in the prior application is to Bradford J. Duft, Reg. No, 32,219.
- ☒ The power appears in the original papers in the prior application.
- ☐ The power does not appear in the original papers, but was filed on _____ in this application.
- ☐ A new power has been executed and is attached.
- ☒ Address all future communications to:

LYON & LYON LLP
633 West Fifth Street, 47th Floor
Los Angeles, California 90071
(213) 489-1600
Attention: Bradford J. Duft

XVII. MAINTENANCE OF CO-PENDENCY OF PRIOR APPLICATION

- ☒ A petition, fee and response has been filed to extend the term in the pending **prior** application until March 30, 1999. A copy of the petition for extension of time in the **prior** application is attached.

XVIII. CONDITIONAL PETITIONS FOR EXTENSION OF TIME IN PRIOR APPLICATION

- ☐ A conditional petition for extension of time is being filed in the pending **prior** application. A copy of the conditional petition for extension of time in the **prior** application is attached.

XIX. ABANDONMENT OF PRIOR APPLICATION

- ☐ Please abandon the prior application at a time while the prior application is pending or when the petition for extension of time or to revive in that application is granted and when this application is granted a filing date so as to make this application co-pending with said prior application. At the same time, please add the words "now abandoned" to the amendment of the specification set forth in Item 2 above.

Respectfully submitted,

LYON & LYON LLP

Dated: March 29, 1999

By: 

Charles S. Berkman
Reg. No. 38,077

633 West Fifth Street, Suite 4700
Los Angeles, California 90071-2066
(213) 489-1600
Enclosures